

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayner
Marshall Johnson
Ken Nickolai
Thomas Pugh
Phyllis A. Reha

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of an Application by Northern
States Power Company d/b/a Xcel Energy for
Authority to Increase Rates for Natural Gas
Service in the State of Minnesota

ISSUE DATE: November 12, 2004

DOCKET NO. G-002/GR-04-1511

NOTICE AND ORDER FOR HEARING

PROCEDURAL HISTORY

On September 17, 2004, Northern States Power Company d/b/a Xcel Energy (Xcel or the Company) filed a general rate case seeking an annual rate increase of \$9.9 million, or approximately 1.7%. On September 21, 2004, the Commission issued a notice to potentially interested parties requesting comments on whether the Commission should accept the filing as substantially complete and whether it should refer the case to the Office of Administrative Hearings for contested case proceedings.

On September 29, 2004, the Minnesota Department of Commerce (the Department) filed comments that recommended accepting the filing as complete and referring the case for contested case proceedings. On October 18, 2004, the Department filed comments revising that recommendation in light of its review of the Company's new base cost of gas petition, filed in conjunction with its petition for interim rates.

The Department stated that its review of the base cost of gas petition, filed in docket G-002/MR-04-1544, revealed a discrepancy between the gas costs used in calculating the base cost of gas in that docket and the gas costs used in the general rate case filing. The agency recommended finding the rate case filing incomplete until the Company had filed testimony, schedules, and work papers correcting this discrepancy.

On October 21, 2004, the Residential and Small Business Utilities Division of the Office of the Attorney General filed comments concurring in the Department's revised recommendation.

On October 22, 2004, the Company filed revised testimony, rate schedules, and work papers correcting the discrepancy. The Company also stated that it did not object to treating October 22 as the date on which the rate case filing became substantially complete. On October 27, 2004, the Department filed a letter recommending that the Commission accept the rate case filing as substantially complete as of October 22, 2004.

On today's date the Commission issued an Order in this case finding the rate case filing to be substantially complete as of October 22, 2004 and suspending the proposed rates pending a final decision on the merits of the rate case filing.

FINDINGS AND CONCLUSIONS

I. Jurisdiction and Referral for Contested Case Proceedings

The Commission has jurisdiction over proposed rate changes under Minn. Stat. § 216B.16. If the Commission is unable to resolve all significant issues regarding the reasonableness of the proposed rates on the basis of the filing itself, the Commission is to refer the matter to the Office of Administrative Hearings for contested case proceedings. Minn. Stat. § 216B.16, subd. 2.

The Commission finds that it cannot satisfactorily resolve all questions regarding the reasonableness of the proposed rates on the basis of the Company's filing. The Commission will therefore refer the matter to the Office of Administrative Hearings for contested case proceedings.

II. Proposed Rates

The Company proposes rate increases by customer class as follows:

Xcel - Proposed Apportionment of Revenue Requirement
(Based on revised Exhibit AAL-1, Schedule 2, rounded to nearest \$1,000)

	Number of Customers	Revenue Present Rates	Revenue Proposed Rates	Proposed Change in Revenue	Net Percentage Change
<u>Firm Sales</u>					
Residential	372,681	\$ 337,515,000	\$ 349,876,000	\$ 12,361,000	3.7%
Small Com. & Ind. ("C&I")	25,110	\$ 63,776,000	\$ 63,345,000	\$ (431,000)	-0.7%
Large C&I	6,367	\$ 88,603,000	\$ 86,926,000	\$ (1,677,000)	-1.9%
Small C&I-Demand Billed	21	\$ 1,037,000	\$ 1,029,000	\$ (7,000)	-0.7%
Large to Small C&I-Demand Billed	101	\$ 8,065,000	\$ 7,845,000	\$ (221,000)	-2.7%
Large C&I-Demand Billed	20	\$ 7,797,000	\$ 7,728,000	\$ (69,000)	-0.9%
<u>Interruptible Sales</u>					
Small Interruptible	447	\$ 22,512,000	\$ 22,369,000	\$ (143,000)	-0.6%
Medium to Large Int.	127	\$ 50,731,000	\$ 50,753,000	\$ 23,000	0.0%
Large Interruptible	4	\$ 16,509,000	\$ 16,613,000	\$ 104,000	0.6%
<u>Transportation</u>					
Large Firm	1	\$ 762,000	\$ 699,000	\$ (63,000)	-8.3%
Medium to Large Int.	10	\$ 164,000	\$ 165,000	\$ 1,000	0.6%
Large Int. (Negotiated)	4	\$ 472,000	\$ 472,000	\$ -	0.0%
Total Retail Revenue		\$ 597,942,000	\$ 607,820,000	\$ 9,877,000	1.7%
Total Other Gas Revenues		\$ 23,042,000	\$ 23,102,000	\$ 60,000	0.3%
Total Sales and Other Gas Revenue		\$ 620,984,000	\$ 630,921,000	\$ 9,937,000	1.6%

The Company also proposes to increase basic customer charges as set forth below:

	Current	Proposed
<u>Firm Sales</u>		
Residential	\$ 6.50	\$ 8.50
Sm C&I	\$ 14.00	\$ 20.00
Lg C&I	\$ 25.00	\$ 40.00
Sm C&I-Demand Billed	\$ 150.00	\$ 150.00
Lg to Sm-Demand Billed	\$ 275.00	\$ 150.00
Lg C&I-Demand Billed	\$ 275.00	\$ 275.00
<u>Interruptible Sales</u>		
Small Interruptible	\$ 125.00	\$ 125.00
Medium to Large Interruptible	\$ 300.00	\$ 300.00
Large Interruptible	\$ 450.00	\$ 300.00
<u>Transportation</u>		
Large Firm	\$ 300.00	\$ 300.00
Medium to Large Interruptible	\$ 325.00	\$ 325.00
Large Interruptible (Negotiated)	\$ 300.00	\$ 300.00

Finally, the Company proposes to change the way it calculates residential rates by partially “decoupling” amounts charged from amounts of natural gas used. The Company has developed a formula to re-calibrate rates to permit it to continue recovering the cost of service despite what it perceives to be a steady decline in consumption by residential customers. In the alternative, the Company proposes to increase the customer charge, the minimum amount billed to all residential accounts regardless of usage, from \$6.50 to \$14.00.

III. Issues to be Addressed

Parties shall specifically and thoroughly address the following issues in the course of the contested case proceedings ordered herein:

- (1) Is the test year revenue increase sought by the Company reasonable or will it result in unreasonable and excessive earnings by the Company?
- (2) Is the rate design proposed by the Company reasonable?
- (3) Are the Company's proposed capital structure, cost of capital, and return on equity reasonable?
- (4) Is the continuation of Xcel’s end-user allocation service in the public interest? (The Company will be required to file supplemental testimony on its ongoing end-user allocation pilot project to aid in the analysis of this issue.)

- (5) Are the Company's alternative proposals to significantly increase the residential customer charge or to partially decouple usage and residential charges consistent with applicable statutes and rules, Commission directives, and the public interest?

The parties may also raise and address other issues relevant to the Company's proposed rate increase.

IV. Procedural Outline

A. Administrative Law Judge

The Administrative Law Judge assigned to this case is Kathleen A. Sheehy. Her address and telephone number are as follows: Office of Administrative Hearings, Suite 1700, 100 Washington Square, Minneapolis, Minnesota 55401-2138; (612) 341-7602.

B. Hearing Procedure

- *Controlling Statutes and Rules*

Hearings in this matter will be conducted in accordance with the Administrative Procedure Act, Minn. Stat. §§ 14.57-14.62; the rules of the Office of Administrative Hearings, Minn. Rules, parts 1400.5100 to 1400.8400; and, to the extent that they are not superseded by those rules, the Commission's Rules of Practice and Procedure, Minn. Rules, parts 7829.0100 to 7829.3200.

Copies of these rules and statutes may be purchased from the Print Communications Division of the Department of Administration, 660 Olive Street, St. Paul, Minnesota 55155; (651) 297-3000. These rules and statutes also appear on the State of Minnesota's website at www.revisor.leg.state.mn.us.

The Office of Administrative Hearings conducts contested case proceedings in accordance with the Minnesota Rules of Professional Conduct and the Professionalism Aspirations adopted by the Minnesota State Bar Association.

- *Right to Counsel and to Present Evidence*

In these proceedings, parties may be represented by counsel, may appear on their own behalf, or may be represented by another person of their choice, unless otherwise prohibited as the unauthorized practice of law. They have the right to present evidence, conduct cross-examination, and make written and oral argument. Under Minn. Rules, part 1400.7000, they may obtain subpoenas to compel the attendance of witnesses and the production of documents.

Parties should bring to the hearing all documents, records, and witnesses necessary to support their positions.

- *Discovery and Informal Disposition*

Any questions regarding discovery under Minn. Rules, parts 1400.6700 to 1400.6800 or informal disposition under Minn. Rules, part 1400.5900 should be directed to Robert Harding, Public Utilities Rates Analyst, Minnesota Public Utilities Commission, 121 7th Place East, Suite 350, St. Paul, Minnesota 55101-2147, (651) 296-7125; or Kari Zipko, Assistant Attorney General, 1100 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, (651) 296-1408.

- *Protecting Not-Public Data*

State agencies are required by law to keep some data not public. Parties must advise the Administrative Law Judge if not-public data is offered into the record. They should take note that any not-public data admitted into evidence may become public unless a party objects and requests relief under Minn. Stat. § 14.60, subd. 2.

- *Accommodations for Disabilities; Interpreter Services*

At the request of any individual, this agency will make accommodations to ensure that the hearing in this case is accessible. The agency will appoint a qualified interpreter if necessary. Persons must promptly notify the Administrative Law Judge if an interpreter is needed.

- *Scheduling Issues*

The times, dates, and places of public and evidentiary hearings in this matter will be set by order of the Administrative Law Judge after consultation with the Commission and intervening parties.

- *Notice of Appearance*

Any party intending to appear at the hearing must file a notice of appearance (Attachment A) with the Administrative Law Judge within 20 days of the date of this Notice and Order for Hearing.

- *Sanctions for Non-compliance*

Failure to appear at a prehearing conference, a settlement conference, or the hearing, or failure to comply with any order of the Administrative Law Judge, may result in facts or issues being resolved against the party who fails to appear or comply.

C. Parties and Intervention

The current parties to this case are the Company, the Minnesota Department of Commerce, and the Residential and Small Business Utilities Division of the Office of the Attorney General. Other persons wishing to become formal parties shall promptly file petitions to intervene with the Administrative Law Judge. They shall serve copies of such petitions on all current parties and on the Commission. Minn. Rules, part 1400.6200.

D. Prehearing Conference

A prehearing conference will be held in this case on Monday, November 29, 2004 at 9:30 a.m. in the Large Hearing Room at the offices of Minnesota Public Utilities Commission, 121 7th Place East, Suite 350, St. Paul, Minnesota 55101.

Persons participating in the prehearing conference should be prepared to discuss time frames, scheduling, discovery procedures, and similar issues. Potential parties are invited to attend the pre-hearing conference and to file their petitions to intervene as soon as possible.

E. Time Constraints

The Commission is required to act on substantially complete rate case filings within ten months, although this ten-month period can be extended for brief periods to permit the negotiation and consideration of settlements.¹ The Commission asks the Office of Administrative Hearings to conduct contested case proceedings in light of these time constraints and requests that the Administrative Law Judge submit her final report within eight months of October 22, 2004, the date on which this rate case filing became substantially complete.

V. Application of Ethics in Government Act

The lobbying provisions of the Ethics in Government Act, Minn. Stat. §§ 10A.01 et seq., apply to general rate cases. Persons appearing in this proceeding may be subject to registration, reporting, and other requirements set forth in that Act. All persons appearing in this case are urged to refer to the Act and to contact the Campaign Finance and Public Disclosure Board, telephone number (651) 296-5148, with any questions.

VI. Ex Parte Communications

Restrictions on ex parte communications with Commissioners and reporting requirements regarding such communications with Commission staff apply to this proceeding from the date of this Order. Those restrictions and reporting requirements are set forth at Minn. Rules, parts 7845.7300-7845.7400, which all parties are urged to consult.

VII. Notices Required; Delegation of Authority

Finally, the rate case statute and the Commission's rules require comprehensive notice of proposed general rate increases. Those notices are required in the ordering paragraphs below, and to promote administrative efficiency, the Commission will delegate to the Executive Secretary the authority to approve customer notices and bill inserts for the duration of this proceeding.

ORDER

1. The Commission hereby refers this case to the Office of Administrative Hearings for contested case proceedings, as set forth above.

¹ Minn. Stat. § 216B.16, subd. 2; Minn. Stat. § 216B.16, subds. 1a and 2.

2. A prehearing conference shall be held on Monday, November 29, 2004 at 9:30 a.m. in the Large Hearing Room at the offices of the Minnesota Public Utilities Commission, 121 7th Place East, Suite 350, St. Paul, Minnesota 55101.
3. The Company shall promptly file supplemental testimony on its ongoing end-user allocation pilot project for use in analyzing end-user allocation services in the course of this proceeding.
4. The Company shall promptly mail copies of this Order to all municipalities and counties within in its Minnesota service area.
5. Public hearings shall be held in this case at locations within the service area of the Company.
6. The Company shall give the following notices of the evidentiary and public hearings:
 - a. Individual written notice to each customer, which may be in the form of a bill insert, and shall be served at least ten days before the first day of hearings.
 - b. Written notice to the governing bodies of all municipalities and counties in the area affected and to all parties in the Company's last two rate cases. These notices shall be mailed at least ten days before the first day of hearings.
 - c. Display advertisements in legal newspapers of affected counties and other newspapers of general circulation within the Company's Minnesota service area. These advertisements shall appear at least ten days before the first day of hearings. They shall include the heading **RATE INCREASE NOTICE**, which heading shall appear in bold face type no smaller than 30 points.
7. The Company shall submit proposed notices for Commission approval prior to publication or service.
8. The Commission delegates to the Executive Secretary the authority to approve customer notices and bill inserts for the duration of this proceeding.
9. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

This document can be made available in alternative formats (i.e., large print or audio tape) by calling (651) 297-4596 (voice), or 1-800-627-3529 (MN relay service).relay service).

BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS
100 Washington Square, Suite 1700
Minneapolis, Minnesota 55401-2138

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION
121 Seventh Place East Suite 350
St. Paul, Minnesota 55101-2147

In the Matter of an Application by Northern
States Power Company d/b/a Xcel Energy for
Authority to Increase Rates for Natural Gas
Service in the State of Minnesota

MPUC Docket No. G-002/GR-04-1511

OAH Docket No.

NOTICE OF APPEARANCE

Name, Address and Telephone Number of Administrative Law Judge:

Kathleen A. Sheehy, Office of Administrative Hearings, Suite, 1700, 100 Washington Square,
Minneapolis, Minnesota 55401; (612) 349-7602

TO THE ADMINISTRATIVE LAW JUDGE:

You are advised that the party named below will appear at the above hearing.

NAME OF PARTY:

ADDRESS:

TELEPHONE NUMBER:

PARTY'S ATTORNEY OR OTHER REPRESENTATIVE:

OFFICE ADDRESS:

TELEPHONE NUMBER:

SIGNATURE OF PARTY OR ATTORNEY: _____

DATE: _____